

REMARKS

Claims 1, 4-7, 9, 10, 21-29, and 31-33 are pending. Claims 2, 11-20 and 30 have been withdrawn and claims 3 and 8 have been cancelled. By this amendment, claims 7, 9, and 10 have been cancelled, and claims 34 and 35 have been added.

Claim 34 depends from claim 1 and is drawn to an isolated polynucleotide comprising a sequence selected from the group consisting of SEQ ID NO:21, SEQ ID NO:23, SEQ ID NO:25, and SEQ ID NO:27. Claim 35 depends from claim 31 and is drawn to an isolated polynucleotide encoding a Neu polypeptide that has a Neu domain, which domain has an amino acid sequence selected from the group consisting of SEQ ID NO:22, SEQ ID NO:24, SEQ ID NO:26, and SEQ ID NO:28.

Consideration of the pending claims as amended, as well as new claims 34 and 35 and the remarks that follow is respectfully requested.

Claim Objections

Claims 31-33 are objected to for use of the term "SEQ ID NO:", which the Examiner suggests should be changed to "SEQ ID NOs:".

Applicants have amended claims 31-33 in accordance with the Examiner's suggestion, and respectfully request withdrawal of the objections.

Claim Rejections – 35 USC § 112, first paragraph

Claim 7 and its dependent claims 9 and 10 stand rejected under 35 U.S.C. §112, first paragraph, as lacking written description support in the specification. Claim 7 is drawn to an isolated polynucleotide capable of hybridizing under high stringency conditions to a sequence selected from the group consisting of SEQ ID NOs: 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, and 33.

Examining the claims in respect of elected SEQ ID NO:21, the Office Action alleges that the specification does not describe any isolated polynucleotides that will hybridize under the conditions recited in claims 7, 9 or 10, and thus does not support the claims. Applicants respectfully disagree, and point out that polynucleotides

comprising, for example, SEQ ID NO:23 or SEQ ID NO:25 will hybridize to SEQ ID NO:21 under the conditions recited in the claims.

While not admitting the propriety of the rejection, in the interest of furthering prosecution and moving the currently allowed claims forward to issuance, Applicant has currently cancelled claims 7, 9, and 10 without prejudice, disclaimer or admission, thereby obviating the rejections. Applicant expressly reserves the right to pursue claims directed to the subject matter of cancelled claims 7, 9 and 10 in a continuing application.

Claim Rejections - 35 U.S.C. §112, second paragraph

Claim 31 stands rejected under 35 U.S.C. §112, second paragraph, as being indefinite for use of the term "homology". The Examiner suggests that the "homology" term be replaced with "sequence identity".

In accordance with the Examiner's suggestion, claim 31 has been amended for technical clarity and now recites "wherein said Neu polypeptide has at least about 85% sequence identity to an amino acid sequence selected from the group consisting of SEQ ID NOs: 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, and 34." Applicant requests withdrawal of the rejection and allowance of amended claim 31.

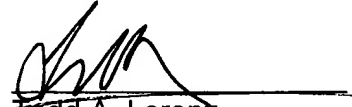
Additionally, Applicant points out that claims 1, 4, 5, 24, 27, and 29 have been similarly amended for technical clarity, and requests allowance of these claims as amended.

CONCLUSION

Applicant submits that the application is now in condition for allowance, and early notification of such is requested. If there remain issues that the Examiner believes may be resolved by telephone, he is respectfully requested to contact the undersigned at (415) 781-1989.

Respectfully submitted,
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